



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 22]

नई दिल्ली, शुक्रवार, मई 12, 2006 / वैशाख 22, 1928

No. 22]

NEW DELHI, FRIDAY, MAY 12, 2006 / VAISAKHA 22, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 12th May, 2006:—

BILL NO. 9 OF 2006

A Bill to prohibit pre-election survey.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Publication of Pre-election Survey Act, 2006.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—
(a) "election" means an election to fill a seat or seats in either House of Parliament or either House of the Legislature of a State; and
(b) "express" means and includes expression through printing or publication in a newspaper or a magazine or a book or telecast/broadcast through television/radio network or by through other means to which the public has access.
3. No person shall express or cause to be expressed any opinion on the result of any election, including any caste based survey in a particular constituency, before the completion of process of election.
4. If any person violates the provisions of section 3, he shall be punished with imprisonment for a term not exceeding five years and a fine not exceeding ten thousand rupees.

Short title,
and
commence-
ment.

Definitions.

Prohibition
of publication
of pre-
election
survey.

Punishment.

STATEMENT OF OBJECTS AND REASONS

It has been observed that during elections to Lok Sabha and Legislative Assemblies, caste based data of a particular region are often published in the newspapers without any scientific basis and on the basis of that data the forecast of victory or defeat of a candidate is published. This creates caste-based tension in the society. Similarly, the forecast of the victory or defeat of some particular party is published in the name of pre-poll opinion which affects the final results of elections. This also affects the fairness of polling and the possibilities of social atmosphere becoming poisonous are enhanced. Therefore, a legislation is needed to ensure free and fair elections.

Hence this Bill.

NEW DELHI;
January 31, 2006.

MOHAN SINGH.

BILL NO. 11 OF 2006

A Bill to provide for preparation, maintenance and auditing of annual accounts of political parties and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Political Parties (Maintenance and Auditing of Accounts) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Commission" means the Election Commission of India constituted under article 324 of the Constitution;

(b) "political party" means an association or body of individual citizens of India registered with the Commission as a political party in accordance with the provisions contained in section 29A of the Representation of the People Act, 1951; and

43 of 1951.

(c) "prescribed" means prescribed by rules made under this Act.

Maintenance
and auditing
of accounts
of political
parties.

3. (1) Every political party shall prepare and maintain annual accounts of all its receipts, expenditure and other relevant records in such form and manner, as may be prescribed.

(2) The accounts of every political party shall be audited by an auditor authorized to audit the accounts of a company under the Chartered Accountants Act, 1949.

38 of 1949.

Submission
and
publication of
audit report.

4. (1) Every political party shall submit its annual certified copy of the audited accounts together with the audit report thereon to the Commission within such time, as may be prescribed.

(2) **The Commission shall cause the annual certified copy of the audited accounts together with the audit report thereon of each political party to be published in such manner, as may be prescribed.**

Penalty.

5. If any political party contravenes the provisions of this Act, the Commission may, after giving a reasonable opportunity to the concerned political party,—

(i) withdraw its recognition, if it is a political party recognised by the Commission under the Election Symbols (Reservation and Allotment) Order, 1968; or

(ii) withdraw its registration as a political party, for such period, as may be prescribed.

Power to
remove
difficulties.

6. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, after consulting the Commission, by order to be published in the Official Gazette make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

(2) Every order may under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Act to have
over-riding
effect.

7. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

Power to
make rules.

8. The Central Government may, in consultation with the Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951, provides that every candidate at an election, either to the House of the People or to the Legislative Assembly of a State, shall keep a separate account of all his expenses incurred in connection with the election but there is no provision providing for maintenance and auditing of accounts of political parties. Since use of money power to win election has become an integral part of our election process and political parties are carrying on their political activities with the help of black money, it is high time that a law providing for maintenance and auditing of accounts of political parties be brought forward. Such a legislation will not only help free and fair elections by discouraging anti-social elements employed by the political parties by using money power to disturb the free and fair elections but will also give a right to the people of the country to know from where the money comes to a political party and where it goes.

The Bill seeks to achieve the above objective.

NEW DELHI;
January 31, 2006.

MOHAN SINGH.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Commission shall cause the annual certified copy of the audited accounts together with the audit report thereon of each political party to be published in such manner, as may be prescribed. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty lakh per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 13 OF 2006

A Bill further to amend the Arms Act, 1959.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title
and
commencement

1. (1) This Act may be called the Arms (Amendment) Act, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution
of new
section for
section 11.

2. For section 11 of the Arms Act, 1959 (hereinafter referred to as the principal Act), the 54 of 1959.
following section shall be substituted, namely:—

"11. The Central Government may, by notification in the Official Gazette, prohibit the taking out of, or subject to the provisions of section 12 bringing into India, arms or ammunition of such classes and descriptions as may be specified in the notification."

3. In section 12 of the principal Act, in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

Amendment
of section 12.

“(a) permit any Indian citizen who holds a licence issued in accordance with the provisions of this Act and the rules made thereunder to bring into India arms or ammunition of such classes and descriptions for self-defence as may be specified in the notification:

Provided that the number of arms brought into India for self-defence by any person shall not be more than two.”.

4. In section 17 of the principal Act,—

Amendment
of section 17.

(i) in sub-section (3), clauses (a) and (b) shall be omitted; and

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) If any Magistrate has reason to believe that any person residing within the local limits of his jurisdiction is prohibited by this Act or by any other law for the time being in force from acquiring, having in possession or carrying any arms or ammunition or transferring such arms or ammunition, or is of unsound mind, or undergoing imprisonment for an offence committed under any law for the time being in force, or that such person cannot be left in the possession of any arms or ammunition without danger to the public peace or public safety, may order the licensing authority to suspend the licence or revoke such licence.”.

5. In section 19 of the principal Act, sub-section (3) shall be omitted.

Amendment
of section 19.

6. After section 21 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
21A.

“21A. Any person, having in his possession any arms or ammunition the possession whereof has ceased to be lawful or whose period of licence has lapsed, or who has not deposited such arms or ammunition under sub-section (1) of section 21 shall be produced before the Judicial Magistrate who shall pass such orders, as he considers necessary.”.

Custody of
persons
possessing
arms and
ammunition
illegally.

7. In section 25 of the principal Act, sub-section (5) shall be omitted.

Amendment
of section
25.

8. In section 43 of the principal Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

Amendment
of section 43.

“(b) such State Government or the Superintendent of Police or Deputy Commissioner of Police exercising jurisdiction over the whole or any part of such area as may be specified by the State Government or such officer or authority subordinate to the State Government.”.

STATEMENT OF OBJECTS AND REASONS

At present, arms or ammunition cannot be brought into the country by citizens even for their self-defence. The anti-social elements after smuggling highly sophisticated weapons from foreign countries are making the life hell for peace loving citizens. Therefore, it is proposed that if any citizen wants to import arms, he may be permitted to bring into country not more than two weapons for self-defence in special circumstances.

The licensing authority is empowered to suspend or revoke a licence for arms if it is satisfied that the licence holder is barred by any law from possessing arms or is of unsound mind or if it feels that it is necessary for the security of public peace that the holder should not possess arms. Under the provisions of the Arms Act, 1959, the Police personnel are empowered to apprehend the offenders and they tend to misuse their powers.

Hence, it is proposed that the Judicial Magistrates should be empowered to deal with any case in the matter of suspension or revocation of licences and also the custody of the offenders.

The procedure for granting licence for arms is lengthy and it causes undue delay. It is proposed to empower Police Officers of the rank of Superintendent of Police or Deputy Commissioner of Police to issue licences for arms. This will check red-tapism and simplify the procedure.

The Bill seeks to achieve the above objectives.

NEW DELHI;
January 31, 2006.

MOHAN SINGH.

BILL NO. 14 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2006.

Short title.

2. In article 75 of the Constitution,—

Amendment
of article 75.

(i) in clause (1) the following proviso shall be added at the end:—

“Provided that the Prime Minister and the other Ministers shall be appointed from amongst the elected members of the House of the People”;

(ii) In clause (1B), for the words “to either House of Parliament”, the words “to the House of the People” shall be substituted;

(iii) In clause (5), for the words “either House of Parliament”, the words “the House of the People” shall be substituted.

Amendment
of article
164.

3. In article 164 of the Constitution,—

(i) in clause (1), after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that Chief Minister and the other Ministers shall be appointed from amongst the elected members of the legislative assembly of the State”.

(ii) for clause (1B), the following clause shall be substituted, namely:—

“(1B) A member of the Legislative Assembly of a State belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State before the expiry of such period, till the date on which he is declared elected, whichever is earlier.”.

(iii) in clause (4), for the words “Legislature of the State”, the words “Legislative Assembly of the State” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Article 75 of the Constitution provides that the Union Council of Ministers shall be responsible to the House of the People. Of late it has been observed that a large number of Ministers are being appointed to the Council of Ministers from the Council of States. The trend is worrying as representatives of people, *i.e.*, the members of the House of the People who have been elected by the people are not being given the opportunity to serve the people who have elected them. Since the Council of Ministers is responsible to the House of the People, it is desirable that the Ministers should invariably be appointed from amongst the elected members of the House of People. Similar situation exists in case of States having two Houses of the Legislature. Corresponding provision is required to be made in case of the States also.

The Bill seeks to achieve the above objective.

NEW DELHI;
February 8, 2006.

KASHIRAM RANA.

BILL NO. 41 OF 2006

A Bill further to amend the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) (Amendment) Act, 2006.

(2) It shall come into force at once.

Substitution of new sections for section 31.

2. For section 31 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, (hereinafter referred to as the Principal Act), the following section shall be substituted, namely:—

Educational institutions to provide amanuensis to all disabled students.

"31. All educational institutions shall provide or cause to be provided amanuensis to all such disabled students at the time of final examination or otherwise as the institutions deem fit.

Reservation in favour of disabled persons.

31A. Notwithstanding anything contained in any other rule, order or law for the time being in force, or any judgement of any court or any other judicial authority or tribunal, every educational institution whether under the State or privately managed, including an institution imparting higher and technical education, shall reserve at least five per cent., of seats in that institution in favour of disabled persons."

STATEMENT OF OBJECTS AND REASONS

At present there is no provision for reservation for disabled persons in educational institutions including those imparting higher and technical education. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ought to have provided for this, but did not provide for reservation.

Moreover, educational institutions should be sensitised more about the concerns of disabled persons. The disabled persons, though intelligent, are not able to score high marks due to their physical disabilities. At present, only blind or partially blind candidates are allowed the use of scribe. This facility should be extended to all disabled persons. Therefore, it is proposed that all disabled persons may be allowed to use scribe to take the examination on their behalf.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 6, 2006

M. SHIVANNA.

BILL NO. 39 OF 2006

A Bill further to amend the Delimitation Act, 2002.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title
and
commencement.

1. (1) This Act may be called the Delimitation (Amendment) Act, 2006.

(2) It shall be deemed to have come into force with effect from the 1st January, 2002.

Amendment
of section 2.

2. In section 2 of the Delimitation Act, 2002, in clause (f), for the words "the State of Jammu and Kashmir", the words "the States of Jammu and Kashmir and Chhattisgarh" shall be substituted.

33 of 2002.

STATEMENT OF OBJECTS AND REASONS

The creation of Chhattisgarh State on November 1, 2000 fulfilled the long standing demand of the people of Chhattisgarh region. The passing of the Madhya Pradesh Reorganisation Act, 2000 by both Houses of Parliament and assented to by the President of India on 25 August, 2000 paved the way for the creation of new Chhattisgarh State in the Union of India. The State of Chhattisgarh is one of the backward States of India. It is evident from the fact that large number of seats in the legislative assembly of the State have been reserved for the persons belonging to the Scheduled Castes and Scheduled Tribes.

At present, the strength of Chhattisgarh Legislative Assembly is 90, out of which ten seats are reserved for Scheduled Castes and thirty-four seats are reserved for Scheduled Tribes. Similarly, there is provision for reservation of two seats for Scheduled Castes and four seats for Scheduled Tribes in Lok Sabha from the State.

The census conducted in the year 2001 shows that the population growth rate of Scheduled Castes and Scheduled Tribes in the State has declined whereas the growth rate of general category population has increased. Whereas in the census conducted in the years 1971 and 1991, population growth rate of Scheduled Castes and Scheduled Tribes population in the same region showed upward progress.

Now on the basis of figures of census 2001, the Delimitation Commission is carrying out the delimitation exercise by reducing the number of seats reserved for Scheduled Castes and Scheduled Tribes in Chhattisgarh Legislative Assembly. Similarly, the delimitation exercise is being carried out by reducing the number of seats reserved for Scheduled Castes in Lok Sabha from the State. In case, Delimitation Commission recommends the reduction of seats for Scheduled Castes and Scheduled Tribes on the basis of census figures, it will be a great injustice to the Scheduled Castes and Scheduled Tribes. Besides, in the census data of 2001 around 500 to 600 villages in the State of Chhattisgarh have been shown as deserted but in fact, these villages are, at present, well inhabited.

In order to overcome the above anomalies, it is essential that the State of Chhattisgarh should not be covered under any exercise of the Delimitation Commission and should also be exempted from the Delimitation Act, 2002. Thus the reserved seats will remain intact which will prove to be helpful in fulfilling the demands and aspirations of the people.

The matter pertaining to irregularities committed during the census 2001 in respect of Chhattisgarh State has already been brought to the notice of his Excellency, the President of India, the Hon'ble Prime Minister, the Minister of Home Affairs, the Minister of Law, Election Commission and Chief Minister of Chhattisgarh. The matter is still pending consideration. Therefore, it is essential to suspend the delimitation exercise in the State of Chhattisgarh.

Hence the Bill.

NEW DELHI;

March 6, 2006.

PUNNULAL MOHALE.

BILL NO. 33 OF 2006

A Bill to provide for constitution of special courts for women and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Special Courts for Women Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'appropriate Government' means the State Government in case of a State and the Central Government in other cases;

(b) 'employer' means,—

(i) in relation to an establishment which is under the control of the appropriate Government, a person or an authority appointed by the appropriate Government, for the supervision and control of employees or where no person is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the Chief Executive Officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the control on the affairs of the establishment or is entrusted to any other person, whether called a manager, managing director, managing agent, supervisor or by any other name, who has been entrusted with the affairs of the establishment, such person;

(c) 'offence' means any offence committed against a woman including rape, criminal assault, mental injury and sexual harassment at work place;

(d) 'prescribed' means prescribed by rules made under the Act;

(e) 'sexual harassment' means and includes,—

(i) harassing any employee by virtue of her being a female;

(ii) indecent representation of women with a view to annoy or irritate a female employee and which causes mental agony to the employee;

(iii) detaining a female employee before or after normal working hours in the absence of other employees and when there is no work to be performed by that female employee, with a view to outrage her modesty or molest her;

(iv) paying less wages or allocating more work to a female employee, than her male counterparts;

(v) refusing to grant leave of absence to a female employee or permission to her during her pregnancy/termination of pregnancy or other periods when she would not be physically or biologically fit to perform her work to her fullest capacity;

(vi) passing of obscene or lewd comments against a female employee;

(vii) making a female employee attend office on holidays or come to such place where her presence is not required in connection with her employment;

(viii) compelling a female employee to attend a party/dance or any musical programme or to dine with her employer or any other person, if the female employee is not willing to do so;

(ix) refusing to allow rest to female employees as provided under the provisions of any other law for the time being in force;

(x) compelling a female employee to dress in a way which would present her in an obscene manner;

(xi) making a female employee perform such a job or duty which would denigrate her personality;

(xii) fondling or touching a female employee in the guise of teaching her or helping in her job;

(xiii) gestures or actions either by word or by written material intending to insult or cause mental injury to a female employee;

(xiv) showing pornography or other obscene literature to a female employee;

(xv) sexual advances with a view to assault or molest or outrage the modesty of a female employee;

(xvi) making female employee perform such duties which she is not able to perform with her physical condition;

(xvii) offering unwanted suggestions or advise about physical appearances or on other matters to a female employee with a view to hurt her;

(xviii) doing of any other act or causing any act by using position as an employer with a view to exploiting a female employee.

Establishment
of special
courts for
women.

3. (1) The appropriate Government shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities or offences committed against women.

(2) Every special court shall consist of a Chief Judge and such number of other Judges as the appropriate Government may deem fit.

Qualification
for
appointment
as Chief Judge
and other
Judges of
special court.

4. (1) A person shall not be qualified for appointment as the Chief Judge, unless he:—

(a) is, or has been, a district Judge; or

(b) has, for atleast two years, held the office of the Judge of the special court; and has, for atleast five years, been associated with women's cause.

(2) A person shall not be qualified for appointment as a judge, unless he—

(a) is, or has been, a judicial magistrate; or

(b) has, for a period of not less than five years, been practising law, and has, for atleast five years, been associated with women's cause.

(3) Every Chief Judge of a special court in a Union territory shall be appointed by the President.

(4) Every Chief Judge of a special court in a State shall be appointed by the Governor of the State concerned.

(5) Every other Judge of a special court shall be appointed by the appropriate Government.

(6) Atleast half of the total number of posts of Judges and other Judges of a special court shall be reserved for women.

Senior most
Judge to act as
a Chief Judge
or to discharge
his functions
in certain
circumstances.

5. (1) In the event of occurrence of any vacancy in the office of the Chief Judge of a special court by reason of his death, resignation or otherwise, the senior most judge of that court shall act as the Chief Judge until a new Chief Judge, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chief Judge is unable to discharge his functions owing to his absence from duty due to any reason, the senior most judge of that special court shall discharge the functions of the Chief Judge until the Chief Judge resumes his duties.

6. Every Chief Judge and other Judges shall hold office for a period of five years from the date on which he enters upon his office or until he attains,—

Term of office.

(a) in the case of the Chief Judge, the age of sixty five years, and

(b) in the case of any other Judge, the age of sixty years whichever is earlier.

7. Every Chief Judge or a Judge may, by notice in writing under his hand addressed to the President in case he is a Chief Judge or a Judge of a special court in a Union territory or to the Governor, in case he is a Chief Judge or a Judge of a special court in a State, resign from his office:

Resignation.

Provided that the Chief Judge or any other Judge shall, unless he is permitted by the President or the Governor, as the case may be, to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

8. The salaries and allowances payable to and other terms and conditions of service including pension, gratuity and other retirement benefits of the Chief Judge or a Judge of a special court shall be such as may be prescribed by the Central Government:

Salary, allowances and other conditions of service of the Chief Judge and other Judges.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chief Judge or a Judge of a special court shall be varied to his disadvantage after his appointment.

9. Every Chief Judge shall exercise such financial and administrative powers over the special court as may be vested in him in such manner as may be prescribed.

Financial and other powers of the Chief Judge.

10. The appropriate Government shall determine the nature and categories of the officers and other employees required to assist a special court in the discharge of its functions.

Staff of the special court.

11. Save as otherwise expressly provided in this Act, every special court shall exercise all the jurisdiction, powers and authority exercisable immediately before that day by all courts except the concerned High Court and the Supreme Court in relation to all matters of offences or atrocities committed against women under the Indian Penal Code, 1860 or any other law for the time being in force relating to women.

Jurisdiction, power and authority of special courts. 45 of 1860

12. Every special court constituted under this Act shall have the same powers to hold any inquiry as are vested in a civil court under the Code of Civil Procedure, 1908 and in a criminal court under the Code of Criminal Procedure, 1973.

Powers of special courts.

13. On the date of coming into force of this Act, the jurisdiction, powers and authority in relation to any offences or crimes or atrocities committed against women, shall be exercisable by a special court and no other court except the High Court concerned and the Supreme Court shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such offences or crimes or atrocities committed against women.

Exclusion of jurisdiction of cases of special court except the High Court concerned and Supreme Court.

14. Every suit or other proceeding pending before any other court or any authority immediately before the date of coming into force of this Act, being a suit or proceeding the cause of action wherein it is based, is such that it would have been if it had arisen after such constitution, within the jurisdiction of a such special court, shall stand transferred on that date to such special court:

Transfer of pending cases.

Provided that nothing contained in this section shall apply to a suit or other proceedings pending in a High Court or the Supreme Court.

Free legal aid
to women.

15. The appropriate Government shall make necessary arrangements and provisions for free legal aid to women for meeting the cost of litigation in special courts.

Disposal of
cases by
special courts.

16. Every case in a special court shall be heard on daily basis and disposed of as early as possible and in any case not later than six months from the date of filing of the suit in the court.

Power to
make rules.

17. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In our society, atrocities against women are increasing day by day. Cases of atrocities against women are piling up in court. Courts take a long time in disposing of the cases. Sexual harassment takes place at work places. By the time the courts give their judgement, the life of the women becomes miserable. Ordinary courts take unduly long time for deciding the cases. Therefore, the special courts should be set up to exclusively deal with cases against women expeditiously.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 6, 2006.

KRISHNA TIRATH.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every State Government and Union territory administration shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities committed against women. Clause 8 provides for payment of salaries and allowances to the Chief Judge and other Judges. Clause 10 provides for appointment and provision of officers and staff required for special courts. Clause 15 provides for free legal aid to women. The expenditure in respect of special courts in respect of Union territories shall be met out of the Consolidated Fund of India and the expenditure in respect of special courts in States will be met out of Consolidated Funds of the respective States.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 38 OF 2006

A Bill further to amend the Constitution (Scheduled Tribes) (Union Territories) Order, 1951.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Scheduled Tribes) (Union Territories) Order (Amendment) Act, 2006.

Amendment of
Part I of
Constitution
(Scheduled
Tribes) (Union
Territories)
Order, 1951.

2. In the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, in PART 1. —*Lakshadweep*, the following provisos shall be inserted at the end, namely:—

“Provided that the children who are born to local scheduled tribe inhabitants of Lakshadweep in any other place in the mainland on India on account of cases referred by the competent medical authority for safe delivery of the children by such inhabitants shall be deemed to be born in the islands if such children are brought back to the islands for inhabitation soon after their birth:

Provided further that the President may, by order, notify any authority as competent medical authority for the purposes of this part:

Provided also that the children who are born to the local Scheduled Tribe of Lakshadweep in any other place in mainland of India on account of the employment of the parents, or on account of *bona fide* travel or tour outside the islands by the parents, or on account of pursuing of higher education outside islands shall be deemed to have been born in the islands if such children are brought back to the islands for inhabitation soon after their birth.”.

STATEMENT OF OBJECTS AND REASONS

According to "PART I.—*Lakshadweep*" in the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, the inhabitants of the Laccadive, Minicoy and Amindivi Islands who, and both of whose parents were born in the Union territory are deemed to be Scheduled Tribes. As per this definition a large number of children who are born to local Scheduled Tribe inhabitants of Lakshadweep in any other place in the mainland of India due to valid medical reasons being referred by competent medical authority for safe delivery of the children and who are brought back to the islands for inhabitation soon after their birth are not covered under the existing rules. Moreover, certain Scheduled Tribes parents from Lakshadweep are employed outside the territory and in case any child is born outside Lakshadweep and even if the parents go back to the islands for permanent inhabitation are also not treated as Scheduled Tribes under the existing rules. The classification of the children of the same parents on the basis of place of their birth is irrational, arbitrary and unconstitutional. Representations were received/submitted that Part I of the Schedule to the said Order is creating difficulties for certain islanders who were born on the mainland on account of non-availability of adequate medical facilities in the islands. Since, the said Order provides that the person has necessarily to be born in the islands for being deemed to be a Scheduled Tribe, such person who is born outside the islands to the inhabitants of islands for valid medical or employment reason is not treated as Scheduled Tribe.

As far as Lakshadweep is concerned, no particular community was selected as a Scheduled Tribe and all the inhabitants in the Union territory irrespective of the community or religious affiliation are being treated as Scheduled Tribes in view of their socio-economic backwardness and extreme poverty arising out of isolation from the mainland. It may not be appropriate to deny Scheduled Tribe status to such persons who were born on the mainland for medical or employment reasons and have been brought back to the islands soon after their birth.

The islands which constitute Union territory of Lakshadweep are very small in geographical areas and scattered in the Arabian sea with very poor surface connectivity and it takes several months to cover even the inhabited islands of Lakshadweep. Having understood these glaring facts all the local inhabitants of Lakshadweep have been conferred the status of Scheduled Tribes irrespective of their castes, creed and religions.

In view of above, it is urgently required that the Constitution (Scheduled Tribes) (Union Territories) Order, 1951 be suitably amended to provide immediate relief to local inhabitants by conferring the status of Scheduled Tribes to all such children born on the mainland for medical or employment reasons to parents belonging to Lakshadweep.

The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
March, 6, 2006.

P. P. KOYA.

P. D. T. ACHARY,
Secretary-General.